

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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J. MICHAEL GLENN, M.D.,

Plaintiff,

v.

21-CV-839 (JLS) (LGF)

UPMC CHAUTAUQUA, GALO  
GRIJALVA, M.D.,

Defendants.

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**DECISION AND ORDER**

Plaintiff J. Michael Glenn, M.D., seeks relief against Defendants UPMC Chautauqua and Galo Grijalva, M.D., for medical malpractice based on his alleged treatment as a patient at Defendant UPMC in March 2020. Dkt. 1. Defendants answered the complaint. Dkt. 8; Dkt. 9; *see also* Dkt. 11; Dkt. 12; Dkt. 14 (amended answers).

Defendants moved for summary judgment. Dkt. 40. Plaintiff opposed the motion (Dkt. 42; Dkt. 43), and Defendants replied (Dkt. 44). On March 27, 2025, United States Magistrate Judge Leslie G. Foschio,<sup>1</sup> issued a Report and Recommendation (“R&R”), recommending that this Court grant, in part, and deny, in part, Defendants’ motion for summary judgment. Dkt. 45. In particular, the R&R recommends granting summary judgment, to the extent that Plaintiff seeks to hold Defendant UPMC vicariously liable for the negligent acts of any employee other than

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<sup>1</sup> On October 29, 2021, this Court referred the case to Judge Foschio for all pretrial matters, pursuant to 28 U.S.C. §§ 636(b)(1)(A)–(C). Dkt. 13.

Defendant Dr. Grijalva, and otherwise recommends denying summary judgment. *See id.* at 34.

Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

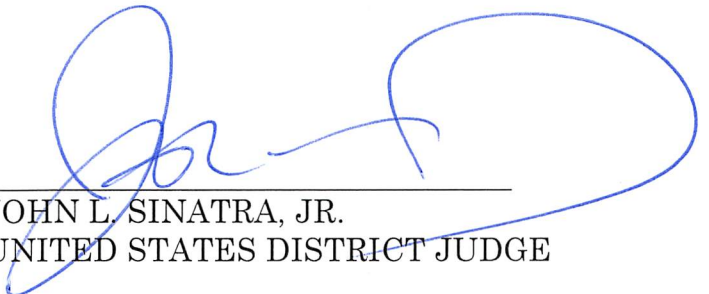
Though not required to do so here, this Court nevertheless reviewed Judge Foschio's R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R.

### CONCLUSION

For the reasons stated above and in the R&R, the Court grants, in part, and denies, in part, Defendants' motion for summary judgment (Dkt. 40).

SO ORDERED.

Dated: April 15, 2025  
Buffalo, New York



JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE